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# THE INTERIM

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## SPECIAL LEGISLATIVE SESSION

Governor Calls Special Session...On October 8, Governor Marc Racicot issued a call to the 53rd Legislature to meet in Special Session in Helena, beginning November 29, 1993. The Governor's stated reason for the session was the referendum that resulted in the suspension of House Bill 671 and in its placement on the November 1994 ballot. The Governor also identified other issues that needed to be addressed, specifically, the increases in property valuation in the state, taxation refunds to federal retirees, and maintenance and repairs to state buildings.

The Governor specified the following subjects in his call:

- 1) legislation to balance the state's budget and address appropriate personnel and operational issues;
- 2) legislation to address the property tax system applicable to home and land owners whose property values have suddenly increased in value because of reappraisal;
- 3) legislation to authorize refunds to federal retirees whose pensions were taxed by the state;

- 4) legislation to address the deferred maintenance needs of state-owned facilities;
- 5) legislation to encourage horizontal drilling and secondary and tertiary recovery of oil in the state of Montana;
- 6) confirmation of gubernatorial appointees;
- 7) appropriations to state and local government and programs, allocation of revenue, and accounting procedures and budget modifications for state and local government agencies; and
- 8) legislation for the purpose of implementing the matters listed in items 1-7 above, including amendments, repealers, new sections to existing statutes, or new acts.

## APPROPRIATIONS SUBCOMMITTEES

Subcommittees Schedule Meetings...In preparation for the Special Session, the appropriations subcommittees have tentatively scheduled the following meetings:

- 1) General Government and Transportation  
Room 420  
November 17, 11:00 a.m.  
November 18, 8:00 a.m.  
November 19, 8:00 a.m., if necessary
- 2) Human Services  
Room 108  
November 17, 1:00 p.m.  
November 18, 8:00 a.m.  
November 19, 8:00 a.m.
- 3) Natural Resources  
Room 402  
November 17, 1:00 p.m.  
November 18, 9:00 a.m.

- 4)     Institutions and Cultural Education  
Room 405  
November 17,   1:00 p.m.  
November 18,   8:00 a.m.
  
- 5)     Education and Cultural Resources  
November 17,   1:00 p.m.  
November 18,   8:00 a.m.  
November 19,   8:00 a.m.
  
- 6)     Long Range Planning  
Room 317  
November 17,   11:00 a.m.  
November 18,    9:00 a.m.  
November 19,    9:00 a.m.

All meetings will take place in the Capitol Building. This schedule is tentative and subject to change. For further information, please contact the Office of the Legislative Fiscal Analyst, 444-2986.

## LEGISLATIVE FINANCE COMMITTEE

Committee to Hear Executive Budget and LFA Analysis...The Legislative Finance Committee will meet in a joint session with the House Appropriations and Senate Finance and Claims Committees at 9:00 a.m. on Wednesday, November 17, in the Senate Judiciary Committee Room (Old Supreme Court Chambers). The purpose will be to hear the executive budget presentation and the LFA analysis of the budget. The meeting will precede the commencement of budget hearings by the appropriations joint subcommittees. The subcommittees will hold hearings from November 17 through 19 in preparation for the special session.

LFA Budget Analysis Book...The LFA Budget Analysis Report for the November special session will be available prior to the joint Senate Finance and Claims/House Appropriations/Legislative Finance Committee meeting on November 17. A limited number of the reports will be allocated to legislators and state agencies at no charge. Agencies desiring additional copies and non-state entities can purchase the reports from the Legislative Council Distribution Center beginning on November 17. The number of reports available for purchase is limited.

Budget Amendments...The Legislative Finance Committee will hold a meeting during the special session to discuss budget amendment requests certified by approving authorities.

## HOUSE SELECT COMMITTEE ON THE BUDGET

Committee to Set Budget Targets...The Speaker of the House has reappointed the Select Committee on the Budget from the 1993 Session to prepare a budget target for the November special session. The Committee will meet at 10:00 a.m. on Thursday, November 11 in Room 104 of the State Capitol. After presentations of the executive deficit projections and an LFA response and update, the Committee will take executive action to establish budget target reductions. Committee members are: Rep. Ed Grady, Chairman, Rep. Jerry Driscoll, Vice Chairman, Rep. Mary Lou Peterson, Rep. Bea McCarthy, Rep. Bob Gilbert, Rep. Joe Quilici, Rep. Mike Foster, and Rep. John Johnson.

## REVENUE OVERSIGHT COMMITTEE

Committee to Meet Twice in November...The Revenue Oversight Committee will meet on Wednesday, November 10 and on Wednesday, November 17 to deal with issues related to the special session. The first meeting (Nov. 10) will begin at 8:00 a.m. in Room 104 of the Capitol. The purpose of this meeting is to adopt economic assumptions that will be used to establish the Committee's revenue estimates for the November special session and to assist the House Select Committee on the Budget in setting a budget target resolution for the Legislature's consideration during the special session.

The second meeting (Nov. 17) was scheduled to coincide with the presentation of the executive budget and a review of the budget by the Legislative Fiscal Analyst. Following these presentations, the Revenue Oversight Committee will formally convene in Room 104 (the meeting room is subject to change) of the Capitol. Items on the agenda include a brief review by staff of past property reappraisal cycles and a report from the Department of Revenue on the activities and recommendations of the Governor's Council on Property Ownership. Committee staff will present an overview of other states' responses to the U.S. Supreme Court decision in Harper v. Virginia. This decision provided for a

retroactive remedy (not specified in the decision), in light of Davis v. Michigan, for income taxes illegally collected on federal retirement income. Other Committee business will include a discussion of tax incentives for horizontal drilling for petroleum and a revisitation of the Department of Revenue's proposed rule on the confidentiality of taxpayer information.

## SUBCOMMITTEE ON VETERANS' NEEDS

Subcommittee Holds First Meeting...The Joint Interim Subcommittee on Veterans' Needs met Friday, October 22, 1993 for the first time this interim. Representative Bob Pavlovich was elected chairman and Senator Ethel Harding was elected vice-chairman.

The Subcommittee heard presentations from Jim Jacobsen, Administrator of the Veterans' Affairs Division of the Department of Military Affairs, and Bob Anderson, Administrator of Special Services Division of the Department of Corrections and Human Services. Testimony was also received from veterans' service organizations and others on the needs of veterans. A study plan was adopted. The next meeting is scheduled for Friday, January 14 in Helena.

Ground Broken for Eastern Montana Veterans' Home...Representative John Johnson also reported that the ground-breaking of the Eastern Montana Veterans' Home in Glendive on October 13 was a success with over 2,000 people attending, including Governor Racicot and many legislators.

## LEGISLATIVE COUNCIL

### LIBRARY

Microfiche copies of summary minutes from the standing committees of the 53rd Legislature will be ready for distribution early in November. The set of approximately 170 microfiche costs \$30.00. The microfiche minutes may be ordered through the Montana Legislative Council Library, Committee Minutes on Microfiche, Room 138, State Capitol, Helena, MT 59620. Payment should accompany each order.

## LEGAL DIVISION

The bid for printing the Annotations to the 1993 Montana Code Annotated was awarded to Darby Printing Company of Atlanta, Georgia. Darby was also the printer for the 1991 Annotations.

## SUBCOMMITTEE ON SCHOOL REVENUE

Subcommittee Holds First Meeting...At its organizational meeting on Friday, September 24, Senator Bob Brown was elected chairman of the Joint Interim Subcommittee on School Revenue. Senator Barry "Spook" Stang was elected vice chairman.

Staff Presents Reports on School Funding System and Non-Levy Revenues...The main business of the day was the review and approval of a study plan and meeting schedule. The Subcommittee was briefed on recent legal actions related to school funding and the structure and intent of the 1993 school finance reform legislation. Staff also briefed the Subcommittee on the issues surrounding the following nonlevy revenues available to school funding: local government severance taxes on oil and gas; net proceeds tax on new production of oil and natural gas; the "flat tax" (net proceeds tax) on coal; corporation license taxes collected from financial institutions; the various vehicle fees and taxes; and personal property tax reimbursement. The study also mandates consideration of equalizing, for school funding purposes, the taxable valuation derived from centrally assessed property, which includes the property of railroads, public utilities, metal and other mines, and commercial airlines.

December Meeting Cancelled...The second meeting, tentatively set for Friday, December 10, has been cancelled and will be rescheduled after the first of the year.

## JUDICIAL UNIFICATION AND FINANCE COMMISSION

Commission Conducts First Meeting...American jurist and educator Arthur Vanderbilt (1888-1957) once remarked that court reform was not a sport for the short-winded. His remark is an apt description of a state



court reform debate that began nearly a century ago. On October 20, the Judicial Unification and Finance Commission (JUFC) conducted its first meeting, thus beginning the next leg of the marathon sport of court reform.

The JUFC study received its impetus from the findings of the District Court Funding Committee of the Montana State Bar Association, which concluded that Montana's District Courts are facing serious funding shortfalls, that county funding for the District Courts (which is based on property taxes) is not only inadequate but fundamentally and constitutionally inequitable, and that a comprehensive study of Montana's judiciary was in order. To address the issues raised by the State Bar's District Court Funding Committee, the Legislature directed the JUFC to examine:

- possible unification of the Montana judiciary;
- current and future funding of the Montana judiciary;
- matters pertaining to the standards for and selection of judges; and
- other matters relating to the efficient operation of the Montana judiciary.

The JUFC plans to conduct at least 8 more meetings, including one or more public hearings, before presenting its recommendations to the 1995 Legislature.

Commission Identifies Areas for Further Research...The Commission's October 20 meeting included a review of Montana's current court system, basic court unification, and state funding issues, as well as a discussion of the Commission's study plan.

The Commission took the following actions:

- elected District Judge Douglas G. Harkin as chairman and Rep. Jim Rice as vice-chairman;
- decided to pursue a study plan based on concurrent consideration of court structure, administration, and finance, but focusing first on District Court funding;
- directed staff to prepare a research report on other states' experiences with court finance and unification; and
- to help identify problems, decided to initially solicit testimony at the next meeting from representatives of the State Bar Association, the Office of Court Administrator, public defenders,

Clerks of the District Court, the Montana Association of Counties, Cascade County, and District Court judges.

Commission to Meet in December...The Commission tentatively set its next meeting for Monday, December 20, beginning at 8:30 a.m. in Room 104 of the State Capitol.

## JOINT COMMITTEE ON POSTSECONDARY EDUCATION POLICY AND BUDGET

Committee Holds First Meeting...The Joint Committee on Postsecondary Education Policy and Budget met on October 1 in Helena. Senator Judy Jacobson was elected chair, and Representative Royal Johnson was elected vice-chair. The Committee heard two presentations: 1) a staff report on funding mechanisms and 1995 biennium appropriations; and 2) a report by Chairman Jacobson on an alternative approach to developing options for structural change in the Montana University System (MUS).

The Committee discussed options for proceeding with the legislative directive to advise the Legislature on the feasibility of changing the MUS funding mechanism. The Committee directed staff to work with the Office of the Commissioner of Higher Education to provide a list of potential funding goals for Committee consideration, which will be used as a basis to develop funding options to meet the goals chosen by the Committee. The Committee also requested an overview of several funding mechanisms, including corridor funding, a proposal by the chairman of the Flathead Valley Community College Board of Trustees, the current proposal of the Commissioner of Higher Education, and incremental funding.

The Committee discussed the current restructuring effort underway by the Board of Regents and requested a report by Commissioner Baker and Regent Kaze at the next meeting on the overall benefits and impacts of the plan. The Committee also requested updates on the Regents' Employee Reporting System and the core curriculum efforts currently underway in the MUS.

The Committee tentatively agreed to meet in December upon the call of the chair.

## THE BACK PAGE

Health care reform is being debated from the halls of Congress to the coffee shop on Main Street. Everyone recognizes the need for reform, but agreement on what shape reform should take varies from person to person and from state to state. A brief overview of the cause of our national health care ills, what several states have done about it, and the current federal proposals are the subject of this month's "Back Page" article by David Niss, staff attorney for the Legislative Council.

### HEALTH CARE REFORM

by David Niss

#### The Problem

The number of Americans without health insurance is said to be 37 million, including 142,000 Montanans. That does not mean all of those persons are without medical care. Rather, those who do receive care but are not covered by health insurance receive an expensive type of care provided by state and federal public assistance agencies or by charity care from hospitals. In Montana, Medicaid serves 85,000 elderly, disabled and blind persons. The number served has grown annually by 15 to 20 percent, spending for which in Montana has nearly quadrupled in the last decade, and will increase by approximately \$66 million in state general funds for the 1996-97 biennium alone. It is estimated that one-fourth of the emergency room bills in Montana go unpaid. These figures are budget-busters for Montana: budget-busters for the state budget that must fund the state share of Medicaid and budget-busters for the private household which must fund insurance premium increases made necessary by hospital cost-shifts of charity care to paying patients. Nationally, similar figures are reported, and several governors have called escalating Medicaid expenses the single largest threat to state budgets.

#### State Solutions

States were the first to respond to the crises, perhaps because, with constitutionally mandated balanced budgets, states were first to see the handwriting on the wall. Legislatures in virtually every state have considered proposals for reforming laws governing access, cost controls, malpractice suits, health planning, individual and small group insurance, or a combinations of all of them. The range of solutions is represented

by Washington and Florida, which have enacted versions of managed competition, Maryland, which has relied upon extensive regulation, and Hawaii, which has a system of employer mandates based upon a federal Employee Retirement Income Security Act (ERISA) exemption.

In 1992, the Florida Legislature enacted the Florida Health Care and Insurance Reform Act, creating a new Health Care Administration, mandating a new universal coverage health plan requiring development of medical practice parameters, requiring development of small employer basic and standard group health plans and a reinsurance pool, and adopting other insurance reforms. Eleven community health purchasing alliances will provide a focus through which small employers, the state, and Medicaid recipients may purchase insurance. The Washington Legislature has passed the Washington Health Services Act of 1993, a multi-payer universal access law requiring enrollment of most residents through employers by July 1, 1999. An earlier basic health services plan would be extended to other low-income residents. An ERISA exemption will be needed to cover the states's large, self-insuring employers. The legislation relies on community health purchasing cooperatives, similar in purpose to those in Florida, to pool insurance purchasing power.

Maryland has enacted small group reform measures that would eventually be spread to the general market and has included an unusual provision for the regulation of physician fees. The small group reform portion contains proposals such as adjusted community rating, guaranteed issue and renewal, prohibition on use of preexisting conditions, and standard benefits package and cancellation regulation. To regulate physician fees, a commission would calculate cost and value of physician services. A doctor whose fees varied from the "relative values" established by the commission would face rate regulation. The commission also has the power to regulate insurance premiums.

Since passage of the Prepaid Health Care Act in 1974, Hawaii has mandated coverage by all employers for workers who work at least 20 hours per week for four consecutive weeks. Both employer and employee contribute to the premium. As the result of a 1978 legal challenge, Hawaii obtained a congressional waiver from preemption by ERISA. However, the waiver limits Hawaii to the 1974 version of the plan. Hawaii also has a Medicaid program and a new program known as the State Health Insurance Program or SHIP, covering those not covered by Medicaid or by the 1974 law.

#### In Montana

Montana's formal efforts at system-wide reform began with the Health Care for Montanans study conducted by the administration of former Governor Stephens. The results of that study were a mixture of

proposed reforms, some costing additional money and some not. Implementation of the reforms suffered from a lack of money in a tight budget year as well as from Governor Stephen's decision not to seek reelection. However, a number of proposals included in or similar to those recommended by the Health Care for Montanans study were included in 1993 legislation, most notably in Senate Bill No. 285.

SB 285 created the Montana Health Care Authority and directed it to recommend two different health plans to the 1995 Legislature. The Authority's duties include recommendation of both single-payer and multi-payer plans, recommendation of a health benefits package for each plan, adoption of a health care resource and management plan, creation of a health care data base, the completion of several studies (including prescription drugs, long term care, tort reform, and certificate of need), establishment of regional health care planning boards, and oversight of cooperative agreements between hospitals.

The bill also incorporated a stand-alone small group insurance reform act known as the "Small Employer Health Insurance Availability Act." This portion of SB 285 required the Commissioner of Insurance to appoint a health benefit plan committee to recommend a standard and basic health care insurance plan to the Commissioner for approval. Small employer (3 to 25 employees) insurers are required to offer the plans in Montana. The plans must include certain features such as community rating, guaranteed issue and renewal, and portability of coverage.

#### Federal Proposals

Four proposals for health care reform are now or will shortly be before the Congress: President Clinton's proposal, two Republican proposals, and a plan proposed by Rep. Jim McDermott (D-Wash.).

The American Health Security Act of 1993, announced by President Clinton on September 22, foresees a seven-member National Health Board (NHB) that will divvy up to each state a share of a national health care budget. The states' job is then to parcel out the state budget to regional health care alliances (or purchasing cooperatives) made up of employees (through subscribing employers) and some Medicaid recipients. The alliances then contract with provider groups or insurers to provide care consistent with three minimum benefit plans prescribed by the federal government. Those provider groups providing the most care within the budget of the alliance presumably would attract the most alliance clients and return the most revenue to their plan providers (hence, "managed competition"). Some Medicaid coverage and some long term care coverage will be provided.

Under the President's proposal, the following responsibilities are likely to be given to the states, which responsibilities in turn raise the issues noted:

1. developing a plan to implement health care reform (Because the proposal allows a single-payer system, should Montana use a single or multi-payer system?);
2. establishing and supervising the health alliances (Will the alliances be a non-profit corporation, or some form of a Montana state agency?);
3. determining whether to provide benefits beyond the minimums established in law or by the NHB (If Montana provides for additional benefits, what will the funding mechanism be?);
4. operating a quality management program (Will Montana use practice protocols or health outcomes in addition to any federal protocols or outcomes?); and
5. licensing and regulating the health plans or partnerships (What resources will be required to accomplish these tasks?).

The Senate Republican (Sen. John Chafee, R-RI) plan would encourage universal coverage by the year 2,000 by requiring all employers to offer, but not necessarily pay for, coverage of workers by that date. Coverage for poor persons who are Medicaid ineligible would be provided by a voucher system paid for by the federal government. The House Republican plan (Rep. Bob Michel, R-IL) does not include universal coverage but would ensure that employees may purchase low cost insurance through their employers and would grant tax deductions to the self-employed and self-insured. The McDermott plan is a Canadian style, single-payer plan, offering universal coverage through premiums paid by the federal government and allowing states and employers to provide additional optional coverage. All of the plans except the McDermott plan also involve medical malpractice reform and streamlining of the paperwork process.

With the apparent agreement of the U.S. Senate Republicans, after the President's September 22 health care speech, that national legislation enacting something like the President's health care reform proposal is necessary, there is sure to be a large change in store for the way the U.S. and Montana health care industry does business.



## INTERIM CALENDAR

November 10, Revenue Oversight Committee, Room 104, 8:00 a.m.

November 11, Veterans' Day, holiday

November 11, House Select Committee on the Budget, Room 104, 10:00 a.m.

November 15, Health Benefit Plan Committee, Room 104

November 16, Legislative Audit Committee, Room 104

November 17, joint meeting of Legislative Finance Committee, House Appropriations Committee, and Senate Finance and Claims Committee, Room 325, 9:00 a.m.

November 17, Revenue Oversight Committee

November 17, General Government and Transportation Subcommittee, Room 420, 11:00 a.m.

November 17, Human Services Subcommittee, Room 108, 1:00 p.m.

November 17, Natural Resources Subcommittee, Room 402, 1:00 p.m.

November 17, Institutions and Cultural Education Subcommittee, Room 405, 1:00 p.m.

November 17, Education and Cultural Resources Subcommittee, 1:00 p.m.

November 17, Long-Range Planning Subcommittee, Room 317, 11:00 a.m.

November 18, General Government and Transportation Subcommittee, Room 420, 8:00 a.m.

November 18, Human Services Subcommittee, Room 108, 8:00 a.m.

November 18, Natural Resources Subcommittee, Room 402, 9:00 a.m.

November 18, Institutions and Cultural Education Subcommittee, Room 405, 8:00 a.m.

November 18, Education and Cultural Resources Subcommittee, 8:00 a.m.

November 18, Long-Range Planning Subcommittee, Room 317, 9:00 a.m.

November 19, General Government and Transportation Subcommittee, Room 420, 8:00 a.m.

November 19, Human Services Subcommittee, Room 108, 8:00 a.m.

November 19, Education and Cultural Resources Subcommittee, 8:00 a.m.

November 19, Long-Range Planning Subcommittee, Room 317, 9:00 a.m.

November 25, Thanksgiving Day, holiday

November 29, First Special Session of 53rd Legislature, State Capitol, convenes at 9:00 a.m.

November 30, Water Policy Committee, 7:00 p.m.

December 20, Judicial Unification and Finance Commission, Room 104, 8:30 a.m.

December 24, Christmas Eve, holiday

**1994**

January 14, Subcommittee on Veterans' Needs



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